THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17185 of 2007

Dated:13.08.2007

Between:

K.Ameer Saheb, S/o.late Nabi Saheb,
and others.

…Petitioners

and

The District Collector, Chittoor,
Chittoor District,
and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17185 of 2007

ORDER:

The land admeasuring about Acs.2.43 cents in Survey No.681/2 situated at Karkambadi Village of Renugunta Mandal in Chittoor District, was jointly owned by Nabhi Saheb – father of the petitioners; and Raja Saheb – husband of the third respondent. It appears, they partitioned the property under a document dated 07.06.1976 each getting an extent of Ac.1.21½ cents. After the death of the predecessors, it appears, the legal heirs of the brothers came together. The third respondent and her daughter allegedly executed an unregistered relinquishment deed dated 16.12.2002 relinquishing their share of Ac.1.21½ cents in favour of the petitioners. The petitioners approached the Tahasildar, Renigunta Mandal, and obtained pattadar passbooks and title deeds (PPBs), and necessary changes in the record of rights. The petitioners allege that the third respondent and another also gave no objection for the same.

On an application made by the third respondent, the Tahasildar initiated action and issued notice dated 12.07.2007 requiring the petitioners to be present for an enquiry on 21.07.2007 along with all relevant records. The petitioners appeared, and filed objections on 07.08.2007. The enquiry is still pending, but the petitioners filed the instant Writ Petition challenging the action of the second respondent in issuing the impugned notice as being contrary to the provisions of

Section 8(2) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act').

Learned Counsel for the petitioners vehemently contends that PPBs were issued to the petitioners taking into consideration the unregistered relinquishment deed executed by the third respondent and her daughter, and therefore, the Tahasildar cannot review his earlier order. He also submits that if the third respondent is aggrieved by the same, her remedy is to approach the Revenue Divisional Officer by way of an appeal, and therefore, enquiry initiated by the second respondent is without jurisdiction. Learned Assistant Government Pleader opposed the Writ Petition contending that when the notice is issued, pursuant to which, the petitioners have already submitted objections, the Writ Petition is not maintainable when the enquiry is pending.

This Court after considering the matter, finds force in the submission of the learned Counsel for the petitioners. The petitioners have already submitted explanation/objections, and therefore, they can raise all the pleas taken therein before the second respondent. This Court also observes that as rightly submitted by the learned Counsel for the petitioners, once PPBs are issued, the Tahasildar cannot cancel the same, unless the order by which such PPBs were issued is set aside by the Revenue Divisional Officer. If there is any dispute as to title, as it exists in this case, Section 8(2) of the Act is the only remedy, and the aggrieved party has to file a suit for declaration of title.

In view of the above, this Writ Petition is disposed of giving liberty to the petitioners to raise all the pleas before the second respondent, who is directed to complete the enquiry, pursuant to the notice, within a period of four weeks from the date of receipt of a copy of this order, if not already completed. No costs.

_____

(V.V.S.RAO, J)

13.08.2007

vs